

RECEIVED  
DISTRICT COURT  
COLUMBIA P 4:01  
2002 APR 11

TOBACCO LITIGATION TEAM

Civil Action No. 99-CV-2496 (GK)

Next Scheduled Court Appearance:  
July 18, 2002

Defendants.

Pursuant to Rules 26 and 36 of the Federal Rules of Civil Procedure ("FRCP")

## **I. RECURRING OBJECTIONS**

Reynolds objects to Plaintiff's Instructions and Definitions to the extent that Plaintiff seeks to impose obligations upon Reynolds that are different from and/or in addition to those imposed by the FRCP. Reynolds further objects to Plaintiff's Instructions and Definitions to the extent the instructions are vague, ambiguous, overly broad, unduly burdensome, oppressive and designed to obtain information that is neither relevant nor reasonably calculated to lead to the discovery of admissible evidence. Reynolds specifically,

**REQUEST NO. 35:** [Withdrawn by Plaintiff.]

**ADDICTION**

**REQUEST NO. 36:** Admit that cigarettes are addictive.

**RESPONSE:** Subject to and without waiving its objections, Reynolds admits that many people believe that cigarette smoking (or the nicotine in cigarette smoke) is "addictive" and, as that term is commonly used today, it is, but that (1) smoking is not addictive in the same sense as heroin, cocaine or similar substances, (2) any smoker with a sincere desire and determination to stop smoking can -- and should -- quit, and (3) smoking does not meet the classic definition of addiction set forth, *inter alia*, in the 1964 Report of the Advisory Committee to the Surgeon General, which distinguished between "addiction" and "habituation," adopting the following definition for "addiction" (at p. 351):

Drug Addiction

Drug addiction is a state of periodic or chronic intoxication produced by the repeated consumption of a drug (natural or synthetic). Its characteristics include:

- 1) An overpowering desire or need (compulsion) to continue taking the drug and to obtain it by any means;
- 2) A tendency to increase the dose;
- 3) A psychic (psychological) and generally a physical dependence on the effects of the drug;
- 4) Detrimental effect on the individual and on society.

Applying this classic definition of "addiction," which distinguishes between many common activities such as drinking coffee and classic drugs of abuse, the Advisory Committee to the Surgeon General (and the Surgeon General) concluded that cigarette

smoking is not "addictive," but rather that it is a habit. The 1988 Surgeon General's Report dramatically altered and relaxed the historical criteria for "addiction," eliminating, for example, the criteria of intoxication, tolerance and withdrawal. The 1988 Report also removed a key component of the concept of addiction: the overpowering need to obtain and take the drug by any means possible. In its place, the 1988 Report substituted a vague requirement that use be motivated by "strong, often irresistible" urges -- a standard that is scientifically unmeasurable and legally meaningless. Under the new "definition" for "addiction," many common, pleasurable activities would be considered "addictive."

Definitions that fail to acknowledge fundamental distinctions among behaviors obscure rather than clarify analysis. Cigarette smoking behavior is fundamentally different from addiction to alcohol or illegal drugs. For example, cigarette smoking is not intoxicating, and it does not impair the individual's ability to make voluntary choices about whether to abstain from or to continue smoking. Furthermore, cessation of cigarette smoking does not involve severe physical distress as does withdrawal from alcohol or classic drugs of abuse. Cigarette smoking also does not generate medically recognized tolerance as do classic drugs of abuse, such as heroin and cocaine. In other words, cigarette smokers do not continually increase the amount that they smoke. See, e.g., 1964 Surgeon General's Advisory Committee Report at 354 ("once established there is little tendency to increase the dose"). Cigarette smoking does not involve the destruction of family and business relationships that is commonly seen with consumption of alcohol or classic drugs of abuse.

Reynolds further admits that it, like the public-at-large, has long known and acknowledged that many smokers find it difficult -- and some find it extremely difficult -- to

quit, at least at certain points in their lives. Today, as many Americans have quit smoking as currently smoke.

Except as expressly admitted herein, Reynolds denies this request.

Reynolds also objects to this request on the ground that the subject matter is improper for a request for admission. This request does not seek an admission regarding facts or the application of law to fact, but purports to require Reynolds to admit or deny a matter reflecting opinions and interpretations of scientific and medical judgments of unnamed and unnumbered third parties.

**REQUEST NO. 37:** [Withdrawn by Plaintiff.]

**REQUEST NO. 38:** [Withdrawn by Plaintiff.]

**REQUEST NO. 39:** Admit that nicotine is a substance in cigarettes that is addictive.

**RESPONSE:** Reynolds incorporates its response, including its objections, to Request No. 36 as if fully set forth herein.

**REQUEST NO. 40:** [Withdrawn by Plaintiff.]

**REQUEST NO. 41:** Admit that every major scientific, medical, and public health organization (including the American Psychiatric Association, the World Health Organization, the National Institute on Drug Abuse, the U.S. Surgeon General, and the U.S. Food and Drug Administration) that has examined the question of whether cigarettes are addictive has concluded that they are addictive.